## REMARKS:

Claims 1-44 have been cancelled. Newly added claims 45-64 are now pending. There are 20 pending claims and 3 independent claims and no additional fees required.

In the Official Action dated May 1, 2008, the Examiner rejected claims 1-37 under 35 U.S.C. 103(a) as being unpatentable over Herron et al (U.S. Patent No. D295,011) in view of Mosley (U.S. Patent No. D397,018). According to the Examiner, Herron provides the general claimed handle and Mosley teaches general concepts in a particular handle design and asserts that it would be obvious to one skilled in the art to combine Herron with Mosley to obtain the present invention.

In response to the Examiner and to clarify the invention, the Applicant is providing newly added claims 45-64. Claims 45-64 do not cover new subject matter and are supported by the specification. To further understand the present invention, the Applicant is also distinguishing Herron and Mosley.

Herron relates to a filet knife design. The Herron knife comprises a body with an expanding front end and a downwardly tapering rear end (downwardly relative to a longitudinal axis at the center of the handle). The downwardly tapering rear end of the Herron body is designed to form resting position for the "pinky" finger. The body does have a concave indentation for the index finger and a section for supporting the thumb. The thumb section is a generally flat surface relative to the top portion of the body and there is a plurality of ridges that provide for a grip design. The body of the Herron knife is generally rectangular in shape.

In contrast to the present invention, Herron does not teach, suggest or disclose "an elongated body having a **tapered front side and a tapered rear end**, ....(and) being **generally rounded** and being generally parallel to a longitudinal axis at the center of said body, ...(and the) **tapered rear end is situated on said axis at the center of said body**." In fact, the present invention does NOT have a resting area for the "pinky" finger which is formed by the downwardly tapering rear end of the Herron body. In addition, Herron does not teach, suggest or disclose "a thumb positioning section .... comprising a concave indentation, said **thumb positioning section sloping downwardly from said indentation towards said opposing sides of said body**, said thumb positioning section

comprising a **thumb rest section.**" Furthermore, Herron does not teach, suggest or disclose "an index finger rest section comprising a cavity with an **extended protrusion, said protrusion designed to cover at least a portion of user's index finger".**

Mosley relates to an ergonomic knife handle. The Mosley knife relates to a generally rectangular body (See Figs 2-3) and has a severely convex and heavily arch-shaped topside with a downwardly tapering rear end (downwardly relative to a longitudinal axis at the center of the handle). Mosley has an indentation with a protrusion for the index finger.

In contrast to the present invention, Mosley does not teach, suggest or disclose "an elongated body having a tapered front side and a tapered rear end, ....(and) being **generally rounded** and **being generally parallel to a longitudinal axis at the center of said body**, ...(and the) **tapered rear end is situated on said axis at the center of said body**." Unlike Mosley, the present invention does NOT have a bent, arched topside forcing a downwardly tapering rear end. In addition, Mosley does not teach, suggest or disclose "a thumb positioning section .... comprising a **concave indentation**, said **thumb positioning section sloping downwardly from said indentation towards said opposing sides of said body**, said thumb positioning section comprising a **thumb rest section.**" Mosley also does not teach, suggest or disclose "an **encirclable section** situated adjacent said rear end of said body, said **section being generally rounded in its circumference.**"

In view of the above, ***Herron and Mosley, either alone or in combination, do NOT disclose, teach or suggest*** (1) "an elongated body having a tapered front side and a tapered rear end, ...(and) being **generally rounded** and **being generally parallel to a longitudinal axis at the center of said body**, ...(and the) **tapered rear end is situated on said axis at the center of said body**." (as shown in independent claims 45, 55 and 64); (2) "a thumb positioning section .... comprising a **concave indentation**, said **thumb positioning section sloping downwardly from said indentation towards said opposing sides of said body**, said thumb positioning section comprising a **thumb rest section.**" (as shown in independent claims 45, 55 and 64); (3) "an **encirclable section** situated adjacent said rear end of said body, said **section being generally rounded in its circumference.**" (as shown in independent claim 55); and (4) "tapered **front and rear**

**ends extend outwardly toward one another and then tapers adjacent said thumb positioning section" and/or "said index finger rest section"** (as shown in independent claim 55).

In addition, ***Herron and Mosley are not properly combinable because they teach away from one another***. Herron and Mosley relate to two distinctively different handle designs and have features which would conflict if combined.

Furthermore, ***the combination of Herron and Mosley would destroy their intended function.*** See ***In re Gordon*** (references are not properly combinable or modifiable if their intended function is destroyed). Although *In re Gordon* usually relates to utility patents because the crucial elements relate to intended functions, the Examiner's use of design patents as obviousness rejections for functional features of the present application allows for the *In re Gordon* analysis. The distinctive features of Herron which relate to its intended function would be destroyed if combined with Mosley.

In view of the actions taken and arguments presented, it is respectfully submitted that the present invention is now in condition for allowance.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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